

AN ORDINANCE      2006-06-01-0633

**DESIGNATING THE HUNTERS POND DEVELOPMENT PROJECT AREA LOCATED IN CITY COUNCIL DISTRICT 3, OUTSIDE SOUTHWEST LOOP 410 AND WEST OF ZARZAMORA ROAD, AS A TAX INCREMENT REINVESTMENT ZONE ("ZONE"); GRANTING CERTAIN EXCEPTIONS TO THE CITY'S ADOPTED TAX INCREMENT FINANCING (TIF) GUIDELINES AND CITY CODE FOR PHASE 2 ONLY; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; PROVIDING FOR AN EFFECTIVE DATE AND A TERMINATION DATE FOR THE ZONE; NAMING THE ZONE "REINVESTMENT ZONE NUMBER TWENTY-FIVE, CITY OF SAN ANTONIO, TEXAS"; ESTABLISHING A TAX INCREMENT FUND; AND CONTAINING OTHER STATUTORILY REQUIRED PROVISIONS FOR THE DESIGNATION OF A ZONE.**

\* \* \* \* \*

**WHEREAS**, the City Council (the "Council") of the City of San Antonio, Texas (the "City") desires to support revitalization activities for the Hunters Pond Development Project (the "Project"), to be funded in whole or in part through the creation of a Tax Increment Reinvestment Zone ("TIRZ"), pursuant to the provisions of the Tax Increment Financing Act (the "TIF Act"), Texas Tax Code, Chapter 311; and

**WHEREAS**, the City received a petition for TIRZ designation by owners representing over 50% of the appraised value of the land in the proposed TIRZ, and the City agrees to create the TIRZ by petition in accordance with the TIF Act and City's adopted 2004 Guidelines and Criteria for the use of TIF ("Guidelines"); and

**WHEREAS**, the Project is located in the City's Primary Target Area for TIF, is eligible for the City's participation at up to 100%, and is in substantial compliance with the City's Master Plan and the 2004 Guidelines by encouraging community revitalization, infrastructure improvements and market-rate housing within certain areas of the City; and

**WHEREAS**, the Project is subject to the Universal Design Policy of the City, located in Chapter 6, Article XII of the City Code, as may be amended from time to time, which currently requires specific design features in single-family homes, duplexes and triplexes constructed with financial assistance from the City or in a TIRZ, to create barrier-free construction; and

**WHEREAS**, because the developer did not comply with the City's Universal Design Policy as set out in the City Code and the TIF Guidelines by constructing 20 houses without handicapped access improvements, the developer has requested and the City staff is recommending to the City Council that the City grant an exception to the Universal Design Policy for 20 homes in Phase 2 only, and if other homes constructed in the Project are found not to be constructed in compliance with the Universal Design Policy, the City may exercise all its legal options, including, but not limited to terminating the TIRZ, and removing non-compliant parcels and their tax accounts from the boundaries of the TIRZ and the list of accounts generating revenue for the TIF fund, which will then be reflected in an amended Final Financing Plan; and

**WHEREAS**, because the developer did not comply with the TIF Guidelines by obtaining payment and performance bonds before he began construction of Phase 2 of the project, the developer has requested and the City staff is recommending to City Council that the City grant an exception to the payment and performance bond requirements of the TIF Guidelines for Phase 2 only, instead accepting alternative documents and security, including an affidavit of completion by the developer, lien waivers and releases from the subcontractors, a list of all known subcontractors, a copy of the developer's contract with the developer's prime contractor, an indemnification by Hunters Pond LLP, and right of set off against TIF reimbursements; and

**WHEREAS**, the developer is expected to comply with all of the TIF Guidelines requirements for the remaining phases of the project, including but not limited to universal design requirements and payment and performance bonds; and

**WHEREAS**, the proposed public improvements and eligible project costs for the Project include site work, storm water pollution prevention, street and drainage, alleys, sewer, water, street lights/signs, detention ponds, off-site sewer, street extension to Zarzamora Street, off-site water, sewer street extension, platting, zoning, permits, right of way landscaping, CPS electric, park improvement, village green improvements, street trees, geo-technical, engineering-surveying, contingency, construction management, legal and formation fees; and

**WHEREAS**, pursuant to the TIF Act, the City may designate a contiguous geographical area within the City as a TIRZ if the City Council finds the Project satisfies the requirements of the TIF Act; and

**WHEREAS**, on September 23, 2004, the City Council adopted Resolution No. 2004-34-30, expressing its intent to consider the creation of the proposed TIRZ, and authorizing the City to (i) deliver notice of said intention to the governing bodies of each taxing unit that levies real property taxes in the proposed TIRZ, including in the notice a description of the TIRZ, the tentative plans for development of the TIRZ, and the estimated impact of the TIRZ on property values and tax revenues; (ii) set a date for a public hearing and publish notice thereof; (iii) make presentations to each of said taxing units; (iv) request each of said taxing units to appoint a representative to meet with City officials, and to call meetings regarding the TIRZ; and

**WHEREAS**, on October 8, 2004, the City sent said written notice to the governing body of each taxing unit that levies real property taxes in the proposed TIRZ of the City's intent to consider establishing the TIRZ, providing 60-days' notice prior to the public hearing; and

**WHEREAS**, City staff has (i) prepared a Preliminary Reinvestment Zone Financing Plan (the "Preliminary Plan") for the proposed TIRZ, and (ii) distributed a copy of the Preliminary Plan to the governing body of each taxing unit that levies taxes on real property in the proposed TIRZ; and

**WHEREAS**, City staff has made formal presentations to the governing bodies of each county or school district that levies real property taxes in the proposed TIRZ; and

**WHEREAS**, notice of the public hearing to be held on June 1, 2006, was published in the San Antonio Express-News on May 25, 2006; and

**WHEREAS**, a public hearing was held on June 1, 2006, after 9:00 a.m. in the Council Chambers at the

Municipal Plaza building to consider the creation of a TIRZ for the Project and its respective benefits to the City and to property in the proposed TIRZ; and

**WHEREAS**, the developer of this project recognizes that there is no guarantee that the value of property in the TIRZ will increase, that any increases in value are dependent upon many factors which are not within the City's control, and that there is no guarantee of any tax increment, as that term is defined in the TIF Act; and

**WHEREAS**, this designation of a TIRZ does not financially obligate the City or other taxing entities; and

**WHEREAS**, it is officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1. GRANTING EXCEPTIONS TO THE CITY'S UNIVERSAL DESIGN POLICY AND PAYMENT AND PERFORMANCE BOND REQUIREMENTS.** An Exception is granted to the City Code and City's TIF Guidelines such that the City's Universal Design Policy will not apply to 20 homes in Phase 2 only, and if other homes constructed in the Project are found not to be constructed in compliance with the Universal Design Policy, the City may exercise all its legal options, including, but not limited to terminating the TIRZ, and removing non-compliant parcels and their tax accounts from the boundaries of the TIRZ and the list of accounts generating revenue for the TIF fund, which will then be reflected in an amended Final Financing Plan; and an exception is granted to the payment and performance bond requirements of the TIF Guidelines for Phase 2 only, such that City-approved alternative documents and security will be acceptable, including an affidavit of completion by the developer, lien waivers and releases from the subcontractors, a list of all known subcontractors, a copy of the developer's contract with the developer's prime contractor, an indemnification by Hunters Pond LLP, and right of set off against TIF reimbursements.

**SECTION 2. DESIGNATING THE AREA AS A TAX INCREMENT REINVESTMENT ZONE ("TIRZ").** The area located in City Council District 3, bounded on the north by Loop 410, to the west by Leon Creek, to the south by the Northern boundary line of Limited Purpose Annexation Area 1, and to the east by State Highway 16 South, commonly referred to as the "Hunters Pond Development Project" with the boundaries as more specifically described in Section 2 below, and officially assigned the name as designated in Section 5 below, is designated as a Tax Increment Reinvestment Zone.

**SECTION 3. DESCRIPTION OF THE BOUNDARIES OF THE TIRZ.** Attached as Exhibit "A", incorporated by reference for all purposes is a description of the boundaries of the TIRZ, which consists of approximately 88.1 acres of real property in Council District Four (4) of the City.

**SECTION 4. CREATION AND COMPOSITION OF A BOARD OF DIRECTORS FOR THE TIRZ.** There is created a Board of Directors (the "Board") for the TIRZ, with all the rights, powers and duties as provided by the TIF Act to such Boards or by action of the City Council. According to Section 311.0091(c) of the Texas Tax Code, as amended effective September 1, 2001, the Board shall consist of eleven (11) members.

**SECTION 5. EFFECTIVE DATE AND TERMINATION DATE OF THE TIRZ.** The TIRZ shall take effect on this day and continue until its termination date of September 30, 2031 (the "Termination Date"), unless otherwise terminated earlier as a result of breach of the development agreement, payment in full of all project costs, or as authorized or permitted by law.

The City Council further acknowledges and declares that this TIRZ may be dissolved at any time by the City should the developer fail to abide by the alternatives to payment and performance bonds and Universal Design requirements listed above, should no other taxing entity participate in the TIRZ; should all other taxing entities withdraw participation, should there be no development agreement reached with the applicant or other entities in order to leverage private assets to the City's benefit; or should any development agreements fail for whatever reason.

**SECTION 6. ASSIGNING A NAME TO THE TIRZ.** The TIRZ is assigned the name of "REINVESTMENT ZONE NUMBER TWENTY-FIVE, CITY OF SAN ANTONIO, TEXAS."

**SECTION 7. TAX INCREMENT BASE.** The Tax Increment Base for the TIRZ is the total appraised value of all real property taxable by the City and located in the TIRZ, determined as of January 1, 2006, the year in which the TIRZ was designated (the "Tax Increment Base").

**SECTION 8. ESTABLISHMENT OF A TAX INCREMENT FUND.** There is created and established in the depository bank of the City, a fund to be called the "REINVESTMENT ZONE NUMBER TWENTY-FIVE, CITY OF SAN ANTONIO, TEXAS TAX INCREMENT FUND" (herein called the "Tax Increment Fund"). Money in the Tax Increment Fund, from whatever source, may be disbursed from the Tax Increment Fund, invested, and paid as permitted by the TIF Act or by any agreements entered into pursuant to the TIF Act, or as otherwise authorized by law.

**SECTION 9. FINDINGS.** The City finds and declares that (a) improvements in the TIRZ will significantly enhance the value of all the taxable real property in the TIRZ and will be of general benefit to the municipality; and (b) the TIRZ area meets the requirement of §311.005 of the TIF Act, as the TIRZ area:

(1) substantially arrests or impairs the sound growth of the City, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

- (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
- (B) the predominance of defective or inadequate sidewalk or street layout;
- (C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (D) unsanitary or unsafe conditions;
- (E) the deterioration of site or other improvements;
- (F) tax or special assessment delinquency exceeding the fair value of the land;
- (G) defective or unusual conditions of title; or
- (H) conditions that endanger life or property by fire or other cause; or

(2) is predominantly open, and because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the City; and

The City, pursuant to the requirements of the TIF Act, further finds and declares that:

- (1) the proposed Zone is a contiguous geographical area located wholly within the corporate limits of the City of San Antonio;
- (2) the total appraised value of the taxable real property in the proposed Zone or in existing reinvestment zones, if any, does not exceed fifteen percent (15%) of the total appraised value of taxable real property in the City and in industrial districts created by the City;
- (3) the proposed Zone does not contain more than fifteen percent (15%) of the total appraised value of real property taxable by Bexar County or by the Southwest Independent School District; and
- (4) development or redevelopment within the boundaries of the proposed Zone will not occur solely through private investment in the reasonably foreseeable future.

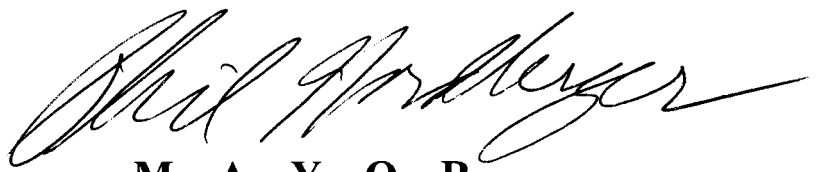
**SECTION 10. DESIGNATION OF A §311.005(a)(5) TIRZ.** This TIRZ is designated pursuant to §311.005(a)(5) of the TIF Act.

**SECTION 11. INCORPORATION OF RECITALS.** The statements set forth in the recitals of this Ordinance are true and correct, and are incorporated as a part of this Ordinance.

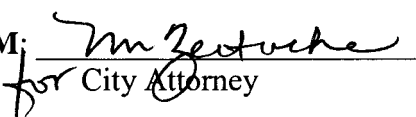
**SECTION 12. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared herein, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 13. ORDINANCE EFFECTIVE DATE.** This Ordinance shall become effective immediately upon passage in accordance with §311.004(3) of the Act.

***PASSED AND APPROVED this 1st day of June 2006.***

  
**M A Y O R**  
**PHIL HARDBERGER**

**ATTEST:**   
City Clerk

**APPROVED AS TO FORM:**   
for City Attorney

# Agenda Voting Results

**Name:** 5.

**Date:** 06/01/06

**Time:** 11:19:46 AM

**Vote Type:** Multiple selection

**Description:** Public hearing and consideration of an Ordinance designating the Hunters Pond development project area located in District 3, outside Southwest Loop 410 and west of Zarzamora Road, as a Tax Increment Reinvestment Zone ("TIRZ"); granting certain exceptions to the City's adopted Tax Increment Financing (TIF) Guidelines for phase 2 only; describing the boundaries of the TIRZ; creating a board of directors for the TIRZ; providing for an effective date and a termination date for the TIRZ; naming the TIRZ "Reinvestment Zone Number Twenty-Five, City of San Antonio, Texas"; establishing a tax increment fund; and containing other statutorily required provisions for the designation of a zone. [Presented by David D. Garza, Director, Neighborhood Action; Jelynn LeBlanc Burley, Deputy City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4	Not present			
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

SKS  
06/01/06  
Item # 5

**EXHIBIT A**

**HUNTERS POND TIRZ  
LEGAL DESCRIPTION  
APPROXIMATELY 88.1 ACRES**